

A Plan for Transitioning the Cellular Radiotelephone Service to a Market-Based Licensing System

CTIA – The Wireless Association®

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CORRECTED

A Market Based Licensing System is Superior

- The Commission has previously found that market-based licensing systems are highly efficient, provide a more orderly licensing structure, and foster efficient utilization of spectrum in an expeditious manner
 - Which is why market-based licensing systems are widely used in other commercial wireless services.
- By contrast, the site-based licensing system used in the cellular radiotelephone service (“cellular”) is antiquated and administratively burdensome for licensees and FCC staff to maintain.
 - Filings required every time a licensee makes any system modification that changes its calculated Cellular Geographic Service Area (“CGSA”), no matter how small, resulting in thousands of applications/notifications
- There is no reason to maintain a site-based licensing system in all markets to protect unserved area opportunities in a few markets.

Conclusions

- Site-based licensing is not needed in all CMA/Blocks to preserve unserved area opportunities.
- The overwhelming majority of claims for unserved areas in the last three years have been made by existing licensees, not new market entrants.
- Site-based licensing is serving more to constrain the ability of existing licensees to expand than it is to preserve new market entrant opportunities.

Transition Plan

Objective

- *Transition fully-served CMA/Blocks to a more efficient market-based licensing system, while continuing to use site-based licensing to preserve unserved area licensing opportunities in those markets that are not yet fully served.*

Rationale

- 98% of all Americans live in areas with 3G wireless service.
- 91% of all cellular CMA/Blocks are more than 90% served.
- In CMA/Blocks where there are contiguous unserved areas larger than 50 sq. miles and where the CMA/Block is less than 90% served, the Phase II unserved area application process will be retained.
- We propose to exclude licensees in the Gulf of Mexico CMA due to the unique licensing history and rules regarding licensees in that market.

Revised Transition Plan

Step One: Convert Cellular Service to Market-Based System Using Current CGSAs.

- As of the day on which the new rules take effect (the “Effective Date”):
 - The cellular service shall be deemed a market-based radio service.
 - Each active cellular license shall be deemed to be a market-based license, with the geographic boundaries of each license being determined by the licensee’s currently-authorized CGSA, including areas within the CGSA that may be located in other CMAs.
 - Consistent with other services licensed on a market-area basis:
 - Cellular licensees shall be entitled to operate anywhere within the boundaries of their geographic license area subject to a 40 dBuV/m median field strength at the license area boundary unless adjacent area licensees have agreed to a higher field strength.
 - Cellular licensees will not be required to file major modification applications to obtain approval for CGSA changes except where proposing to expand their geographic license area into unserved areas (subject to the provisions of Step Two, below).

Revised Transition Plan

Step One: Convert Cellular Service to Market-Based System Using Current CGSAs (cont'd).

- Licensees in the Gulf of Mexico CMA shall be excluded from this plan due to the unique licensing history and rules regarding licensees in that market.
- No later than one year after the Effective Date, each cellular licensee must electronically submit an updated System Information Update (“SIU”) map – in a GIS format specified by the Commission – depicting the licensee’s currently-authorized CGSA as of the filing date.
 - Each SIU map must be accompanied by a copy of the licensee’s most recent, FCC-approved CGSA map. The CGSA boundaries in each map must be substantively identical, and must be calculated using the methodology prescribed in Section 22.911 of the Commission’s rules.
 - Cellular licensees may file updated SIU maps at anytime.

Revised Transition Plan

Step One: Convert Cellular Service to Market-Based System Using Current CGSAs (cont'd).

- Within one year after the Effective Date, licensees may file modification notifications/applications, with corroborating documentation, to make corrections to ULS license records.
 - Where the Commission's unserved area license rules remain in place, licensees may continue to file modifications after this one-year period.
- Licensees required to work together to resolve any disputes regarding CGSA boundaries and, if they are unable to do so, either party may, at its own expense, refer such matters to arbitration for resolution.

Revised Transition Plan

Step Two: Unserved Area Licensing Rules Sunset.

- The Commission's unserved area licensing rules shall sunset on a CMA/Block-by-CMA/Block basis as of the date on which, if ever, a CMA/Block is deemed fully served (the "Sunset Date").
 - A CMA/Block shall be deemed fully served as of the date that SIU map(s) are filed with the Commission demonstrating that (excluding government lands, but not tribal areas):
 - There are no contiguous unserved areas 50 square miles in size or larger remaining within the CMA/Block, or
 - More than 90% of the total land area within the CMA/Block is served.
- CMA/Blocks that do not meet the foregoing criteria shall remain subject to the Commission's existing unserved area, site-based licensing rules until such time as they do.

Revised Transition Plan

Step Two: Unserved Area Licensing Rules Sunset (cont'd).

- After the Sunset Date in a CMA/Block, residual unserved areas shall be distributed to incumbent licensees as follows.
 - In CMA/Blocks with only one licensee, to the licensee.
 - In CMA/Blocks with multiple licensees, to the licensees on a proportional basis, based on the geographic size of each licensee's license area, with the goal of distributing unserved areas to immediately adjacent licensees in the CMA/Block.
 - In the event that incumbent licensees in a CMA/Block cannot agree as to how remaining unserved areas are to be distributed following the Sunset Date, the licensees may, at their own expense, submit the matter to arbitration for resolution.
- After the Sunset Date in a CMA/Block, licensees may, but are not required to, request that the Commission issue a new market-based license certificate for their license area based on their most recent SIU map, including any residual areas distributed to them pursuant to the provisions described above.

Advantages of New Plan

- Licensing Efficiencies Realized in Fully-Served CMA/Blocks
- Preservation of Unserved Area Rules in Under-Served CMA/Blocks, Allowing New Parties to Enter the Market, While Removing Administrative Constraints on the Ability of Existing Licensees to Expand into Adjacent Areas.
- More Orderly and Useful Cellular License Records
- Licensing Parity with Other Commercial Wireless Services